

## **BILL ANALYSIS**

C.S.H.B. 3787  
By: Sanford  
Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that certain aspects of state law imposing the sales and use tax are unclear regarding which sales of goods and services are considered sales for resale and thus exempt from the sales and use tax. C.S.H.B. 3787 seeks to address this issue by clarifying the application of the sales and use tax to certain property and services.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3787 amends the Tax Code to clarify that "sale for resale" under the Limited Sales, Excise, and Use Tax Act includes tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of transferring it as an integral part of performing a contract, or a subcontract of a contract, for the sale, other than the lease or rental, of tangible personal property with a governmental entity or a religious, educational, or public service organization exempted from the sales tax under the act only if the purchaser allocates and bills to the contract the cost of the property or service as a direct or indirect cost and transfers title to the property to the exempt entity or organization under the contract and any applicable acquisition regulations. The bill establishes that a sale for resale does not include the sale of tangible personal property to a purchaser who acquires the property for the purpose of using, consuming, or expending it in, or incorporating it into, an oil or gas well in the performance of a taxable oil well service.

C.S.H.B. 3787 includes as a requisite condition for labor to repair, remodel, maintain, or restore tangible personal property to be exempt from the sales and use tax the itemization of the charge for the labor separately from the charge for materials furnished. The bill makes such an exemption inapplicable to the charge for materials furnished by the service provider to the purchaser as part of the service. The bill exempts 65 percent of a lump-sum charge for such labor and materials from the sales and use tax if the repair, remodeling, maintenance, or restoration is required to protect the environment or to conserve energy and the labor and materials are purchased for a health care facility or for an oncology center. The bill repeals the exemption from the sales and use tax for amusement and personal services provided through coin-operated machines that are operated by the consumer and excludes such operation from "amusement services" and "personal services" for purposes of the act. The bill establishes that its provisions are a clarification of existing law and do not imply that existing law may be construed as inconsistent with the law as amended by the bill.

C.S.H.B. 3787 repeals Section 151.335, Tax Code.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, October 1, 2019.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3787 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a clarification that "amusement services" includes an admission or ticket to an amusement service.

The substitute does not include a provision establishing that a taxable service used to perform a taxable service is not considered resold unless the purchaser acquires the service for the purpose of transferring it as an integral part of performing a taxable service.

The substitute includes a specification that a contract for the sale of tangible personal property that constitutes a "sale for resale" excludes the lease or rental of that property.